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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,826	01/27/2004	William E. Rogers	5660-01701/EBM	9082

7590 09/14/2007  
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EXAMINER
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TUCKER, WESLEY J

ART UNIT	PAPER NUMBER
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2624

MAIL DATE	DELIVERY MODE
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09/14/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/765,826	Applicant(s) ROGERS ET AL.	
	Examiner Wes Tucker	Art Unit 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 18-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8-16-04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 18-27 in the reply filed on July 2<sup>nd</sup> 2007 is acknowledged. Claims 1-17 and 28-43 are withdrawn.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 18-21 and 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,044,170 to Migdal et al.

With regard to claim 18, Migdal discloses a method, comprising:

determining topography information regarding a client's face by moving a scanning head of a non-contact scanning device relative to the client (column 4, lines 45-57 and column 18, lines 7-64) ;

determining position information of the scanning head as the scanning head is moving (column 4, lines 45-57); and

determining a computerized model of the client's face by correlating the determined position information and the determined topography information (column 18, lines 7-64).

Migdal discloses creating a 3D model of objects from a scanning device that projects patterned light onto a surface and uses imaged projections to obtain 3-dimensional data. Migdal also gives the example of creating a 3D model of a person's face.

With regard to claim 19, Migdal discloses the method of claim 18, further comprising modifying the computerized model of the client's face (column 18, lines 21-64). Migdal discloses modifying the face model by reducing the number of mesh points in flatter areas.

With regard to claim 20, Migdal discloses the method of claim 18, further comprising modifying the computerized model of the client's face with user input (column 18, lines 29-38).

With regard to claim 21, Migdal discloses the method of claim 18, further comprising modifying the computerized model of the client's face with computer-assisted interpolation (column 19, lines 1-18).

With regard to claim 23, Migdal discloses a method, comprising:

determining topography information regarding a client's face by moving a scanning head of a non-contact scanning device relative to the client (column 4, lines 45-57 and column 18, lines 7-64) ;

substantially simultaneously determining position information of the scanning head and capturing topography information while moving the scanning head (column 4, lines 45-57); and

determining a computerized model of the client's face by correlating the determined position information and the determined topography information (column 18, lines 7-64).

Migdal discloses creating a 3D model of objects from a scanning device that projects patterned light onto a surface and uses imaged projections to obtain 3-dimensional data. Migdal also gives the example of creating a 3D model of a person's face. The position information is considered to be determined substantially simultaneously as the light patterns are projected and imaged simultaneously.

With regard to claims 24-26, the discussions of claims 19-21 apply respectively Migdal discloses.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2624

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of U.S. Patent 6,044,170 to Migdal and the Applicant disclosed Publication A3 in the submitted IDS entitled "Fabrication of Total-Contact Burn Masks by Use of Human body Topography and Computer-Aided Design and Manufacturing." By Whitestone et al, hereinafter referred to as Whitestone.

With regard to claims 22 and 27, Migdal discloses the method of claims 18 and 23, but does not disclose the step of taking the 3D model data gathered and using it to manufacture a solid model. Whitestone discloses sending a computerized model of the client's face to a computerized manufacturing device to form a solid model (p. 545, left column). Whitestone teaches that the 3D data is sent to a manufacturing device that uses the 3D data to carve out the shape of the 3D face data. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use the 3D data gathered by Migdal in creating solid mask as taught by Whitestone in order to create a manufactured solid product.

Art Unit: 2624

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wes Tucker whose telephone number is 571-272-7427. The examiner can normally be reached on 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wes Tucker

9-11-07



**MATTHEW C. BELLA**  
**SUPERVISORY PATENT EXAMINER**  
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